

the agencies take great care to ensure that the public participation provisions, as well as all other elements of the Administrative Procedure Act, are carried out in all respects. My advisers, including the Council members, the Office of Management and Budget, and the agencies, also ensure that agency rule-making decisions are supported by the public record maintained by the relevant agency pursuant to the Administrative Procedure Act.

I note that the Conference Report suggests certain operating procedures for the Council on Competitiveness. This report language is not legally binding, and the procedures it suggests would inappropriately interfere with my duty to oversee the executive branch. As previously stated, current procedures ensure that the regulatory process includes public participation and that decisions are based on the public record.

It is also essential that the President, the Cabinet, and other advisers be provided frank, candid advice about issues that may be raised in the regulatory process. The procedures proposed in the Conference Report would interfere with my ability to obtain such advice by requiring internal discussions among my Cabinet and my advisers to be reduced to writing and put on the public record. Such restrictions on the President's Cabinet or advisers, if imposed by the Congress, would be unprecedented and unconstitutional. I am, therefore, directing the Council on Competitiveness to continue to implement the regulatory re-

view process in a manner that is consistent with current law and with my constitutional responsibilities.

I also note that, certain provisions in the bill—those concerning regulatory review by the Office of Management and Budget (OMB) and the management of the Postal Service—could be interpreted to interfere with my authority under the Constitution to supervise the decision-making process within and management of the executive branch. In order to avoid this constitutional difficulty, and without recognizing the Congress's authority to impose these restrictions, I will interpret them to permit such supervision through other means.

A number of provisions in the Act condition the President's authority, and the authority of affected executive branch officials, to use funds otherwise appropriated by this Act on the approval of various congressional committees. These provisions constitute legislative vetoes similar to those declared unconstitutional by the Supreme Court in *INS v. Chadha*. Accordingly, I will treat them as having no legal force or effect in this or any other legislation in which they appear.

GEORGE BUSH

The White House,
October 6, 1992.

Note: H.R. 5488, approved October 6, was assigned Public Law No. 102-393.

Statement on Signing the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 October 6, 1992

I have signed into law H.R. 5678, the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993."

During the past few years, I have continually sought increased resources for Federal law enforcement. While we have achieved substantial progress in this area, the Congress has been unwilling to support fully

my efforts to combat violent crime and drugs, placing public safety at greater risk. Once again, I am disappointed that this Act cuts more than \$500 million from my request to support the fight against crime and drugs. Obviously, this will hamper the Justice Department's efforts to combat violent crime. Additional funding could have been provided to fight crime if the Congress had

agreed to terminate or reduce other unwarranted programs as proposed in my FY 1993 budget request.

The results of the congressionally imposed cuts will be manifold. First, the Federal Bureau of Investigation will not be able to hire additional agents. Second, the Drug Enforcement Administration will be unable to complete major planned drug investigations. Third, my plan for the systematic expansion of prison operations will be curtailed. Fourth, the Immigration and Naturalization Service will be forced to operate at a level below FY 1992, meaning less enforcement on our Nation's borders. Finally, Federal prosecutors will be unable to handle their mounting case loads, thereby delaying putting criminals behind bars.

In addition, I note that section 611(b)(1) of the Act incorporates by reference a provision that grants certain authority only to those Members of the Board of Directors of the Legal Services Corporation who have been confirmed by the Senate. Under Article II of the Constitution, the President has the power "to fill up all Vacancies that may happen during the Recess of the Senate." Under the Constitution, such recess appointees enjoy the same powers assigned to Senate-confirmed officers. Provisions

purporting to grant authority only to individuals confirmed by the Senate interfere with the President's recess appointment power, and are unconstitutional.

I would also note my strong objections to the inclusion of an amendment to the criminal post-employment statute in an appropriations bill, without benefit of any public discussion of the merits, without any appreciation of the recently enacted comprehensive amendments to the post-employment statute, and without regard for the implications of targeting for coverage just one position.

Nevertheless, the overall amount of funding provided by H.R. 5678 is consistent with my budget request, and thus allows progress toward a freeze in domestic discretionary budget authority to be maintained. Because the bill provides funding for the continuance of many important programs within this level, I have signed it.

GEORGE BUSH

The White House,
October 6, 1992.

Note: H.R. 5678, approved October 6, was assigned Public Law No. 102-395.

Statement on Signing the Department of Defense Appropriations Act, 1993

October 6, 1992

I have signed into law H.R. 5504, the "Department of Defense Appropriations Act, 1993." The Act provides funding for Department of Defense programs.

I note that in specifying appropriations ceilings on specific programs for "Defense Reinvestment for Economic Growth," the Congress provided flexibility to allocate the total amount of such appropriations. This will allow the President to ensure that such appropriations are used only for defense-related functions, consistent with the Budget Enforcement Act and the appropriate role of the Department of Defense.

I am concerned that the Act requires

American taxpayers to indemnify States and localities, with respect to certain claims that may arise in connection with real property transferred to them by the Department of Defense. This provision discourages the Department of Defense from transferring to States and localities real property no longer needed by the Department, an unfortunate outcome of H.R. 5504 by that should be corrected in future legislation.

Section 9009 of H.R. 5504 and the last proviso in section 105 of the Classified Annex incorporated in H.R. 5504 by reference, which purport to limit the authority to protect certain national security informa-